

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: NATIONAL PRESCRIPTION)	MDL 2804
OPIATE LITIGATION)	
)	Case No. 1:17-md-2804
THIS DOCUMENT RELATES TO:)	
)	Judge Dan Aaron Polster
<i>All Cases</i>)	
)	<u>ORDER REGARDING LITIGATION</u>
)	<u>HOLDS</u>

It has come to the Court's attention that plaintiffs in at least some of the four PBM bellwether cases selected by the Court failed to timely implement litigation holds to preserve documents and evidence for trial. *See* docket no. 5503. On July 9, 2024, the Court held a teleconference with counsel for PBM Bellwether plaintiffs, the PEC, and the PBM defendants to discuss whether those cases should continue as bellwethers.

During the conference, Plaintiffs asserted discovery could and should continue pursuant to the current CMO deadlines. Accordingly, for now, the Court directs the parties to continue their discovery efforts in all of the bellwether cases. The Court will decide later whether any of the bellwether cases will be replaced. To help the Court assess the viability of potential replacement bellwethers, the PEC and PBM Bellwether Plaintiffs shall file a single, joint notice indicating, for each MDL case where a PBM defendant is named: (1) whether a litigation hold was implemented, and (2) if so, when. This report shall be filed by **noon on July 22, 2024**.

Further, the Court stated it would take under advisement whether it would require *all* plaintiffs in this MDL that seek leave to amend, pursuant to the Court's amendment order (docket no. 5455), to likewise indicate whether a litigation hold was implemented in their case. The Court concludes this information is important and relevant to the question of which cases may eventually

be chosen as bellwether cases. Although implementation of a litigation hold is not a strict precondition for allowing amendment, a defendant may want to address the topic in response to a motion to amend.

Accordingly, the PEC shall coordinate with each plaintiff that seeks leave to amend pursuant to docket no. 5455; and the PEC shall file a single notice for all such cases, indicating whether a litigation hold was implemented in each case and, if so, when. This notice shall be filed not later than **noon on September 9, 2024**.

IT IS SO ORDERED.

/s/ Dan Aaron Polster July 10, 2024
DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE